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Legal aid funding sources sought

Low interest rates hurt

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Although a recent U.S. Supreme Court decision has preserved the concept of funding legal services for the poor, those who administer the funds still face financial challenges.

"Interest rates are so low that in order to fund all of our grants in 2002, we had to dip into our reserves for the first time in 10 years," said Debra Hill, president of the Arizona Foundation for Legal Services and Education.

"It's an unfortunate trend. We couldn't dip into our reserves again for 2003, so we cut our grants by about $200,000."

As in other states, attorneys in Arizona deposit small amounts of money held for a short period into a pooled trust account. The interest on lawyers' trust accounts money is used to pay for legal aid programs nationwide.

In Arizona, IOLTA money goes to 10 organizations that provide legal help to the needy. One agency, the Asylum Project of Southern Arizona, helps refugees seeking political asylum in this country.

Georgia Vancza, executive director of the Tucson-based Asylum Project, says a $35,000 IOLTA grant represents 20 percent of her agency's budget this year.

"It's the largest amount of our core funding, and it's important because it validates our work," Vancza said.

"Having the support of the (foundation) helps us attract money from other grant-makers who may not be familiar with our organization."

At the William E. Morris Institute for Justice, a $99,500 IOLTA grant covers nearly one-third of the $325,000 annual budget. The Phoenix-based agency specializes in poverty law, class-action lawsuits and legislative advocacy for low-income residents.

In late March, the institute sued the Isaac School District over its alleged failure to comply with Proposition 203, the English immersion initiative passed in 2000. The lawsuit claims that two Spanish-speaking students were not provided with a bilingual education program at their school, even though they qualified for a waiver allowing them to attend bilingual classes.

"If we didn't have the IOLTA money, we'd have to make some serious decisions about

our viability," Executive Director Eddie Sissons said.

"It's difficult for us to attract funding because of the unique nature of what we do. Other charities focus on more direct services; we're always scrambling for money."

The IOLTA concept was challenged in 1997 by the Washington Legal Foundation, which claimed the IOLTA program in Washington state violated the Fifth Amendment of the U.S. Constitution. The amendment says that private property may not be taken for public use without just compensation.

On March 26, the high court rejected the argument in a 5-4 decision. Writing for the majority, Justice John Paul Stevens said the "compelling interest in providing legal services to literally millions of Americans" qualifies the funds as a constitutional public use.

Stevens added that just compensation must measure the property owner's loss rather than the government's gain. Citing the decision of an *en banc* court in the 9th U.S. Circuit, the justice wrote that no compensation is due because of the way IOLTA programs operate.

"Any conceivable net loss to petitioners was the consequence of . . . incorrect private decisions rather than any state action," Stevens wrote. "It is neither unethical nor illegal for lawyers to deposit their clients' funds in a single bank account."

Despite the judicial reprieve, legal-aid advocates are seeking other financial help. Hill said the Arizona Foundation may ask attorneys to make voluntary contributions to the IOLTA fund. The foundation is also considering legislative initiatives and will hold its first fund-raising event next year, a wine auction that Hill hopes will bring in more than $100,000.

"We will continue to look for additional sources because there is such an unmet need," she said.

Vancza, who says the Asylum Project is the only agency of its kind between San Diego and El Paso, calls her clients the most desperate people in the world.

"A number of our clients are Muslims, and they're really fearful because they haven't been in the country long enough to have a sense of security and confidence," she said.

"We're the last resort for a lot of folks. Every case is compelling and tragic."